

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF OKLAHOMA**

ROSS W. WHITEHEAD,)	
)	
Petitioner,)	
)	
v.)	Case No. CIV-21-272-J
)	
STEPHENS COUNTY, STATE OF)	
OKLAHOMA,)	
)	
Respondent.)	

ORDER

Petitioner, a state prisoner appearing pro se, filed a Petition for writ of habeas corpus under 28 U.S.C. § 2254 [Doc. No. 1]. The matter was referred for initial proceedings to United States Magistrate Judge Amanda Maxfield Green consistent with 28 U.S.C. § 626(b)(1)(B), (C). Judge Green issued a Report and Recommendation finding that Petitioner has not exhausted his state court remedies and cannot seek monetary relief under § 2254 and recommending the Petition be dismissed without prejudice and his motion to proceed in forma pauperis be denied as moot. [Doc. No. 6].

Petitioner did not file an objection on or before June 18, 2021 and has therefore waived any right to appellate review of the factual and legal issues in the Report and Recommendation. *See Casanova v. Ulibarri*, 595 F.3d 1120, 1123 (10th Cir. 2010).¹ Because Petitioner has failed to comply with the Court's orders, the Court ADOPTS the Report and Recommendation [Doc. No.

¹ It appears Petitioner never received the Report and Recommendation because he failed to update his address for the Court's records. [Doc. Nos. 5, 7]. However, Petitioner bears the responsibility for updating his contact information, therefore his inability to receive filings does not alter the outcome in this case. *See Theede v. U.S. Dep't of Labor*, 172 F.3d 1262 (10th Cir. 1999).

6], DISMISSES Petitioner's application to proceed in forma pauperis [Doc. No. 2] as moot, and DISMISSES Petitioner's Petition [Doc. No. 1] without prejudice.

Pursuant to Rule 11(a) of the Rules Governing Section 2254 Cases, the Court must issue or deny a certificate of appealability (COA) when it enters a final order adverse to a petitioner. A COA may issue only if the petitioner "has made a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). "A petitioner satisfies this standard by demonstrating that jurists of reason could disagree with the district court's resolution of his constitutional claims or that jurists could conclude the issues presented are adequate to deserve encouragement to proceed further." *Miller-El v. Cockrell*, 537 U.S. 322, 327 (2003). Petitioner has failed to make either showing and the Court denies the COA.

A separate judgment shall be entered.

IT IS SO ORDERED this 22nd day of June, 2021.


BERNARD M. JONES
UNITED STATES DISTRICT JUDGE